

**State of Connecticut**  
**SENATE**  
STATE CAPITOL  
HARTFORD, CONNECTICUT 06106-1591

**SENATOR ANDREW W. RORABACK**  
THIRTIETH DISTRICT

P.O. BOX 357, 455 MILTON ROAD  
GOSHEN, CONNECTICUT 06756  
TELEPHONE

HARTFORD: (860) 240-8800  
TOLL FREE: 1-800-842-1421  
HOME: (860) 491-8617  
FAX: (860) 240-0021

EMAIL: Andrew.Roraback@cga.ct.gov

RANKING MEMBER  
EXECUTIVE AND LEGISLATIVE NOMINATIONS COMMITTEE

MEMBER  
FINANCE, REVENUE AND BONDING COMMITTEE  
JUDICIARY COMMITTEE  
ELEMENTARY AND SECONDARY EDUCATION COMMITTEE  
REGULATION REVIEW COMMITTEE

December 13, 2011

Connecticut Siting Council  
Attention: Melanie Bachman, Staff Attorney  
10 Franklin Square  
New Britain, Connecticut 06051

Re: Connecticut Siting Council Notice to Amend Regulations

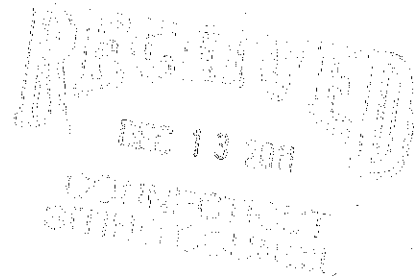
Dear Ms. Bachman,

I am writing to express my concern regarding a number of the proposed Siting Council regulation changes.

(1) The proposed restrictions on limited appearances contained in 16-50j-15b violate Section 16-50n of the General Statutes and go too far in limiting the speech and association rights of individuals and organizations. C.G.S. Section 16-50n grants an unlimited right to "any person" to make a limited appearance and file a written statement. It gives discretion to the Council only with regard to allowing limited appearances for the purposes of making an oral statement at a hearing. In addition, the statute specifically contemplates that persons who are "otherwise entitled to be a party" may make limited appearances and simply clarifies that, unless you are otherwise entitled to be a party, making a limited appearance does not give you party status or give you the rights of a party.

Thus, the proposed regulation violates Section 16-50n because it would prohibit any person who happens to be a party, intervenor or member of a non-profit organization from submitting a written limited appearance statement. The statute does not allow the Council to restrict the right of any person, whether a party, intervenor or not, to make a written limited appearance statement. Moreover, to the extent the regulation would categorically prohibit individuals who are parties, intervenors, or members of non-profit organizations from making oral limited appearances, it goes too far, presumes too much and limits the statutory discretion of the Council to make such determinations on a case by case basis.

Particularly with regard to intervenors, it is quite possible that they will have multiple interests at stake and issues they wish to raise. While some of these interests and issues may be central to the pending matter and subjected to briefing and cross examination by the parties, others may not. To declare that such intervenors may never be



allowed to make oral statement limited appearances is to deprive them of their right under existing law to present all of the issues that concern them. As Attorney Ainsworth points out in his comments, such a rule may have the unintended effect of making Council proceedings more cumbersome by forcing intervenors to raise every possible issue within the formal process and subject all issues to full briefing and cross examination.

Even more concerning to me is the proposal to prohibit any member of a non-profit organization from making any limited appearance statement, if such organization happens to be a party or intervenor. In my opinion, this rule would infringe on the speech and association rights of individual citizens. The hundreds and perhaps thousands of individuals who choose to become members of non-profit organizations should not lose the right they would otherwise have to appear before the Council simply because that organization has become an intervenor. The individual member generally has no influence over the organization's decision to intervene, and there is no guarantee that the organization will represent all of the individual's interests before the Council. In my mind, this proposal penalizes individual citizens for exercising their right to associate with organizations of their choice and creates a second class of citizens when it comes to the right to appear and be heard before the Council.

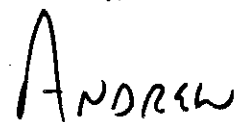
For all of the above reasons, I oppose the changes proposed in 16-50j-15b regarding limited appearances. I would suggest that the regulation simply reflect the existing statute by (1) allowing all persons, regardless of their party status, to make written limited appearance statements, and (2) retaining the discretion of the Council to determine when it is appropriate to allow any person, again regardless of party status, to make an oral statement limited appearance based on the facts of each case.

(2) I want to also briefly echo the concerns raised by others regarding the new reference in 16-50j-61 to the DEEP Natural Diversity Database as a standard for determining the presence of critical habitats. As I understand it, this database simply reflects a search of existing DEEP records and is not the result of an exhaustive and definitive survey. I believe even DEEP has stated that it should not be relied upon by third parties or agencies. Therefore, I believe it is inappropriate to codify this database as a legal standard for the identification of possible endangered or threatened species or habitats.

(3) Finally, with regard to the new language in 16-50r relating to protective orders, I would like to ask the Council to exercise great care in ensuring that whatever standards are developed are as narrow as possible so that only information that is truly critical to our state and national security is exempt from public disclosure. Utility companies and other business entities should not be able to use the cloak of patriotism to shield information that should otherwise be made available to the public.

Thank you for your time and attention and for the opportunity to present my concerns regarding these proposed regulatory changes.

Sincerely,

A handwritten signature in black ink that reads "Andrew". The letters are cursive and slightly slanted to the right.

Andrew Roraback  
State Senator, 30<sup>th</sup> District

cc: Robert Stein, Chairman, Connecticut Siting Council